IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1029 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARATSINH CHUDASAMA FILM PVT.LTD.

Versus

STATE OF GUJARAT AND ORS.

Appearance:

MR BM MANGUKIYA for Petitioners

MR MUKESH PATEL for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/05/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. It is not in dispute that the land on which the petitioner raised the construction of platform is a Government land. It is a clear case of encroachment on

the Government land and the respondents have not committed any illegality whatsoever in ordering for removal of the same. The encroachment made on the Government land by the citizens and more so by the persons who are expected to be law abiding is very very serious and objectionable. The encroachers cannot be protected by this court. Even if it is taken that before praying for removal of this encroachment from the Government land, opportunity was not given to the petitioner of personal hearing, it is hardly of any substance or of any help to the petitioner. The petitioner is a company and in case it itself has taken law in hands and has gone to the extent of making encroachment on the Government land, it has to be seriously viewed by all the concerned. This court, under Article 226 of the Constitution cannot protect a person who made encroachment on the Government land. Even if it is accepted that the land was purchased by petitioner for cinema in public auction on the condition that the surrounding and adjoining lands would be provided for parking space at a notional lease rent of Rs.1 p.a. unless it is granted, the petitioner has no right to make any encroachment on the Government land. It is not the case of petitioner that the platform which has been constructed by it is on its own land. The petitioner is a rank trespasser on the land in dispute and it cannot be protected by this court under its extra ordinary equitable jurisdiction.

#. in the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief granted earlier stands vacated. The petitioner is directed to pay Rs.500/- as costs of this petition to respondents No.1 and 2 and Rs.500/= as costs of this petition to respondent No.3.

(S.K.Keshote, J.)

(sunil)